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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,566	01/19/2001	Earl M. Rector JR.	UV-31CONT.	2141

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EXAMINER

KOSTAK, VICTOR R

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 12/09/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/776,566</b>	Applicant(s) <b>Rector, Jr. et al.</b>
Examiner <b>Victor R. Kostak</b>	Art Unit <b>2611</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Nov 19, 2002

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-18 and 42-50 is/are pending in the application

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-18 and 42-50 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 and 6

6)  Other: \_\_\_\_\_

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1. Applicant's arguments filed on 11/19/02, in view of the amendment, have been fully considered but they are not persuasive, explained as follows.

Applicant argues that Davis does not verify program guide data in real time. Actually, applicant claims "error checking" in his independent claims.

The examiner insists that at the very least, the operator continually checks at least errors involving spacing, spelling, font, punctuation, margin justification, etc., either personally or by word processor software, all while he generates/constructs the text data, such being inherent and not needed to be stated by Davis. It is also pointed out that the initial drafting of whatever alphanumeric composition entered by the operator is part of the program guide construction, prior to guide data organization.

That data is subsequently verified in another stage so specified by Davis, which data is eventually transmitted for display. Considering that the data is intended to be presented to a host of viewers, the headend would naturally make an attempt to ensure proper language structure and syntax, which Davis discloses.

Speaking more generally, such error checking is applied to any writing done on a word processor, for example, or even written by hand. Except for the least conscientious writer, any writer drafts what he desires to draft until completion, all the while reviewing each sentence, word and letter, and punctuation (at the very least) in real time. When any component is considered erroneous, the writer accordingly and very naturally corrects the error, regardless of there being a

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subsequent error checking process to catch errors not caught by the writer, or errors not sensed by the writer which would be included as a failsafe measure.

For this reason, the claims stand rejected, as do the newly added "Beauregard" claims, for the same reason. The rejection below is repeated from the last Office action to consolidate the issues (and which addresses the new claims).

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6-13 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Davis et al.

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The A/V program distribution system of Davis (Fig. 1) involves generating a composite data base 130 from program guide listings initially generated at respective information providers 101-N, each having an inherent computer and user interface (an example given as being a "486" PC: col. 28 line 59); wherein the listings are checked in real time and can be carried out during any step prior to transmission to distribution (e.g. last line in Abstract). It is noted that checking is not only done at any time during listing configuration, but as the operator inputs the data entries initial checks are naturally considered, thereby meeting claims 1, 10 and 42.

As for claims 2, 11 and 43, a user interface is normally included with a computer, mentioned by Davis (e.g. col. 28 lines 66-67).

As for claims 3, 12 and 44, program data errors are scrutinized (col. 3 lines 29-41).

Regarding claims 4, 13 and 45, overlaps are one of many features checked (col. 5 line 50).

As for claims 6, 15 and 47, likewise schedule gaps are checked (col. 5 line 50).

As for claims 7, 16 and 48, Fig. 1 shows the main facility.

Regarding claims 8, 17 and 49, the ultimately corrected program listings are subsequently sent to distributors (e.g. col. 3 lines 61-67).

Considering claims 9, 18 and 50, the workstations 101-N send the respective EPGs to database 130.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 14 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al.

Davis points out that many various EPG features are scrutinized for correcting, if necessary, and gives several examples (col. 3 lines 29-41). Since every feature is not needed to be exhaustively listed, it would have been obvious to one of ordinary skill in the art to correct for any listing problem which can result from EPG generation by plural operators, such as the occurrence of multiple listings.

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (703)-305-4374. The examiner can normally be reached on Monday through Friday from 6:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone (703) 306-0377.

**Any response to this final action should be mailed to:**

**Box AF**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

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(703) 872-9314, (for formal communications; please mark "EXPEDITED PROCEDURE"; for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

**Victor R. Kostak**

**Primary Examiner**

*h.n.*

VRK

12/6/02